

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PABLO ALBERTO VARELA, *et al.*,

Plaintiffs,

- against -

THE REPUBLIC OF ARGENTINA,

Defendant.  
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:  
: 10 CV 5338 (TPG)  
:  
: **DECLARATION OF**  
: **MIRTA SUSANA DIEGUEZ**  
: **IN SUPPORT OF MOTION**  
: **FOR SUMMARY JUDGMENT**

MIRTA SUSANA DIEGUEZ declares under penalty of perjury as follows:

1. I am a citizen of the Republic of Argentina ("Argentina") and one of the plaintiffs in the above-captioned matter. I make this declaration in support of plaintiffs' motion for summary judgment as against Argentina. I have personal knowledge of the facts set forth below.

2. As set forth in the Complaint, it cannot be disputed that (i) my mother Maria Evangelina Carballo, my nephew Leandro Daniel Pomilio and I own the bonds upon which we have sued (the "Bonds"); (ii) Argentina has defaulted on its contractual obligations with respect to the Bonds; and (iii) we provided Argentina with written notice of default accelerating Argentina's payment obligations. Accordingly, summary judgment is appropriate.

3. Before December 2001, mother Maria Evangelina Carballo, my nephew Leandro Daniel Pomilio and I acquired the Bonds that were issued by Argentina pursuant to a Fiscal Agency Agreement, dated as of October 19, 1994 (the "1994 Fiscal Agency Agreement")<sup>1</sup> in the aggregated principal amount of \$72,000 having the ISIN No. US040114GF14 and CUSIP No. 040114GF1. The Bonds are deposited under the name of our broker, Cia. Global de Inversiones S.A, and have been booked electronically by Caja de Valores in our name. A copy of our most recent certificate, as of October 12, 2010, is annexed hereto as Exhibit 1. That

<sup>1</sup> A copy of the 1994 Fiscal Agency Agreement is annexed to the Spencer Declaration.

certificate indisputably shows and confirms that we have not tendered and continue to hold the bonds that are the subject of this action.

4. Notwithstanding its payment obligations under the Bonds, on or about December 20, 2001, Argentina announced an indefinite moratorium on the payment of principal and interest with respect to all of its foreign debt, including all payments due under the Bonds.

5. The declaration of the moratorium by Argentina and its failure to pay interest constitute "Events of Default" as defined by the 1994 Fiscal Agency Agreement. In this regard, Section 12 of the 1994 Fiscal Agency Agreement specifically defines "Events of Default" to include the following:

- (a) Non-Payment: the Republic fails to pay any principal of any of the Securities of such Series when due and payable or fails to pay any interest on any of the Securities of such Series when due and payable and such failure continues for a period of 30 days; or
- (d) Moratorium: a moratorium on the payment of principal of, or interest on, the Public External Indebtedness of the Republic shall be declared by the Republic.

6. Section 12 of the 1994 Fiscal Agency Agreement further provides that following either of the foregoing Events of Default, a bondholder may give Argentina written notice and declare "the principal amount of such Securities held by it to be due and payable immediately," together with all accrued interest.

7. By letter dated April 23, 2010, we provided Argentina with written notice that we were declaring the principal and interest on the Bonds to be due and payable. A copy of this letter is annexed hereto as Exhibit 2.

8. Since then, Argentina has failed to make any payment of principal or interest to my mother, my nephew and I.

9. By reason of the foregoing, Argentina has defaulted on its obligations, and summary judgment is warranted as against it.

I declare under penalty of perjury under the laws of the United States of America that to the best of my knowledge the foregoing is true and correct.

Dated: November 23, 2010



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MIRTA SUSANA DIEGUEZ

# **EXHIBIT 1**

CAJA DE  
VALORESDECRETO 677/2001 - REGIMEN DE TRANSPARENCIA EN LA OFERTA PUBLICA

Sres. CIA.GLOBAL DE INVERSIONES S.A.

Presente

Depositante: 192

Conste por la presente que al día de la fecha se encuentran registrados en Custodia en ésta Caja de Valores S.A. a nombre de:

DIEGUEZ MIRTA SUSANA  
CARBALLO MARIA EVANGELINA  
POMILIO LEANDRO DANIEL

(Comitente Nro. 1109 )

los siguientes valores:

Especie: 6658 BONO GLOBAL REP.ARG.U\$S VTO.19/12/08  
TITULOS PUBLICOS  
US040114GF14  
CEDEL  
V/N U\$S 72.000,00  
(SETENTA Y DOS MIL \*\*\*\*\*)

Se extiende este Certificado a pedido del interesado a los 12 días del mes de OCTUBRE DE 2010

La expedición del presente Certificado importará el bloqueo de los valores arriba consignados, solo para inscribir actos de disposición por su titular, por el plazo de Treinta (30) días, salvo que el titular devuelva el comprobante o dentro de dicho plazo se reciba una orden de prórroga del bloqueo del juez o Tribunal Arbitral ante el cual el comprobante se hubiera hecho valer.

La presente información se expide en cumplimiento de lo dispuesto en el art. N°43 del decreto Reglamentario de ésta Caja de Valores S.A. N°659/74 y del art. N°4 inciso e) del Decreto N° 677/01 "Regimen de Transparencia en la Oferta Pública" y solo acredita la existencia del saldo registrado en la cuenta comitente, en la fecha consignada en la presente

CAJA DE VALORES S.A.

WALTER E. ESCUDERO  
GERENTE DE OPERACIONES

CAJA DE VALORES S.A.

JUAN CARLOS FALABELLA  
DIRECTOR SECRETARIO

Certificate No. 72140

## CAJA DE VALORES

### DECREE 677/2001 – TRANSPARENCY REGIME OF THE PUBLIC OFFER

Messrs.

**CIA. GLOBAL DE INVERSIONES**

**Depositor Number 192**

Know all men by this present that as of today are deposited in custody in this Caja de Valores S.A. in the name of:

**DIEGUEZ MIRTA SUSANA  
CARBALLO MARIA EVANGELINA  
POMILIO LEANDRO DANIEL**

**Number of Principal: 1109**

the following bonds:

Type: 6658      REPUBLIC OF ARGENTINA GLOBAL BOND IN US\$  
MATURITY 12/19/08  
PUBLIC BONDS  
US040114GF14  
CEDEL  
NOMINAL VALUE US\$ 72,000.00  
(seventy two thousand \*\*\*\*\*)

This certificate is issued at the request of the interested party on the 12 day of the month of October, 2010.

The issuing of this certificate implies the freezing of the assets stated above, only for the registration of acts of disposal made by its holder, for the period of thirty days, unless the holder returns the certificate or that within the said term the Judge or Arbitration Board under which this certificate has been filed, orders an extension of the freezing of the assets.

This information is issued in compliance with the provisions of Section No. 43 of this Caja de Valores S.A.'s Regulatory Decree No. 659/74 and the Article No. 4, clause e) of the Decree No. 677/01 "Transparency Regime of the Public Offer" and it only shows the existence of the balance registered in custody as of this date in the account referred to in the first paragraph hereof.

*[There are two illegible signatures]:* Manager. Director.

# **EXHIBIT 2**

Michael C. Spencer  
Direct Dial: 212-946-9450  
mspencer@milberg.com

April 23, 2010

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

The Republic of Argentina  
c/o Deutsche Bank, as Fiscal Agent  
Attn: Mr. Stan Burg  
60 Wall Street  
New York, NY 10005

**Re: Notice of Event of Default and Demand for Payment**

Dear Mr. Burg,

We write this letter on behalf of our client, Mirta Susana Dieguez, Maria Evangelina Carballo and Leandro Daniel Pomilio (collectively, “Dieguez”).

Dieguez is the owner of certain bonds issued by the Republic of Argentina (the “Republic”) pursuant to a Fiscal Agency Agreement, dated as of October 19, 1994 (the “Fiscal Agency Agreement”). In particular, Dieguez is the owner of the following bonds issued by the Republic:

<u>Face Amount</u>	<u>ISIN No.</u>	<u>Maturity Date</u>
\$ 72,000	US040114GF14	December 19, 2008

The Republic of Argentina has declared the suspension of payments with respect to principal of and interest on its foreign currency denominated external indebtedness, which constitutes Public External Indebtedness. Therefore, an “Event of Default” has occurred in relation to Dieguez’s bonds. As a result, we hereby provide the Republic with notice that Dieguez declares that the Republic was contractually obligated to pay the entire principal amount of the bonds on the date on which the bonds matured. The Republic, however, has not paid any part of the principal amount of the bonds. In addition, Dieguez declares that since the Event of Default, the Republic has failed to make any interest payments due to Dieguez pursuant to the Fiscal Agency Agreement. The entire principal and interest earned to date should be forwarded to this firm, as counsel for Dieguez.



The Republic of Argentina

April 23, 2010

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We reserve all rights to make all necessary legal actions to enforce our client's rights under the Fiscal Agency Agreement and the bonds.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael C. Spencer", with a stylized, flowing script.

Michael C. Spencer

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MILBERG LLP